IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5649 OF 1999

Miss. Manjiri Krishna Pandit
Aged adult, Occ: Service
Residing at 439 Shukrawar Peth
Pune-411 002. ...Petitioner

Vs.

1. State of Maharashtra

2. The Director of Education
(Higher Education)
Maharashtra State
Central Building, Pune.

3. The University of Pune
Ganeshkhind Road, Pune-411 007.

4. Shikshan Prasarak Mandali
Sir Parshurambhau College
Compound, Sadashiv Peth,
Pune-411 030.

5. The Principal
Sir Parshurambhau College
Sadashiv Peth, Pune-411 030.

6. Mrs. Sanjot Nitin Apte,
Aged adult, Occ: Service
Residing at available at
Sir Parshurambhau College,
Sadashiv Peth, Pune-411 030.

7. The President
Grievance Committee
Pune University
Ganeshkhind Road, Pune-411 007. ...Respondents

Mr.Sanjay Kshirsagar Adv. for Petitioner
Mrs.M. Thakur, A.G.P. for Respondent Nos.1 & 2
Mr. Girish Kulkarni for Mrs. M.G. Kulkarni Adv. for Respondent Nos.3 & 7.
Mr. Rajesh P. Behere Adv. for Respondent Nos.4 & 5

CORAM: H.L.GOKHALE &
SMT.R.S.DALVI,JJ.
DATED: 31ST AUGUST, 2005

ORAL JUDGMENT (PER H.L. GOKHALE, J.)

1. The Petitioner herein is a Lecturer in

Political Science working in the Sir Parshurambhau College run by Respondent No.4 Institution. She joined in the College as a part-time Professor in September 1992. Her services were terminated in February 1995 on the ground that though she was belonging to the Other Backward Class, the post on which she was appointed was meant for a Schedule Caste candidate. That order was set aside by the University Tribunal and she was allowed to resume. She was again terminated from 5th August 1996 for another reason and that termination was also interfered and the University Tribunal allowed her Appeal.

2. One Mr. Shitole was working as a full-time Professor in this department and he retired in 1995. It was the case of the Petitioner that she should have been absorbed in that full-time vacancy but one Mrs. Apte was appointed on that post. Although the Petitioner contends that she should have been appointed on that post, Mr. Kshirsagar learned Counsel appearing for the Petitioner does not dispute that the appointment of Mrs. Apte was not challenged by the Petitioner by resorting to any proceedings for that purpose.

3. It so happened that the head of the Political Science Department one Mr. Deo retired on 31st January 2001. The Petitioner asserts, and the Respondent Nos.4 and 5 do not dispute, that the

lectures of Prof. Deo were shifted to the Petitioner and she has been taking all those lectures thereafter. It is her grievance that she has not been regularised in that post as a full-time Professor and has not been paid the salary of a full-time Professor since then. This Petition although seeks through prayer clause (d), regularisation from 6th June 1996 in the vacancy of Mr. Shitole, in view of the statement made by Mr. Kshirsagar the said prayer no longer survives. He is however keen on prayer clause F1, F2 and F3 which are prayers regarding the post which became available after the retirement of Prof. Deo. These prayers seek that it be declared that the Petitioner is working on a full-time post from 20th June 2001 and that her salary be released on that footing. The Petition has been admitted in November 2000. The Respondents have filed their reply and rejoinders. The Petition annexes the Representations made by the Petitioner to the Grievance Committee of the University and the decision of the Grievance Committee. The Grievance was with respect to the Petitioner's post not being converted to a full-time post in 1996. But the Petitioner could not produce any proof to that effect or that she was taking any such extra lectures. There is no dispute that in 1996 she was not allotted any such extra lectures. The Grievance Committee therefore disposed of that complaint and as stated earlier now that dispute is no longer being raised.

4. As far as the claim of the Petitioner from 20th June 2001 is concerned the College is not disputing that she has been taking full-time lectures. There is a Government decision of 8th August 1996 which shows that when a part-time Teacher is appointed to a full-time post it is not necessary to go through entire selection process once again. This G.R. is annexed to the reply filed by Mrs. Aruna Venchurkar, the Joint Director Higher Education. This being the position there is no difficulty as far as the regularisation of the Petitioner in the post is concerned. The only problem is that the College did not forward the necessary papers to the Joint Director, Higher Education the Respondent No.2 herein.

5. Mrs. Thakur, learned A.G.P. has emphasised in this respect and has pointed out that the Government can't be blamed for not clearing the higher salary if the necessary papers were not forwarded by the College. Mr. Behere, learned Counsel appearing for the Respondents 4 and 5 on the other hand pointed out that the College could not have forwarded any such papers, since according to his instructions there was some ban of the Government on recruiting any such further persons. We are not much impressed by the submission of Mr. Behere as nothing prevented the College from entering into correspondence with the Director of Higher Education particularly if the

College wanted the Petitioner to take extra lectures and at the same time taking a stand that it was not liable to make payment since it is an aided institution and that the responsibility was that of the Government.

6. In any case the fact remains that the submissions of the Petitioner are not resisted by Respondents 4 and 5 that the Petitioner has been working as a full-time Lecturer from 20th June 2001 When Prof. Deo retired. This being the position and also in view of the fact that, the concerned College is an Aided Institution we do not see as to why the arrears of pay at the scale payable to the full-time Lecturer should not be paid to the Petitioner. All that has happened is that the Government has saved the money which would have gone to the Petitioner much earlier and Government cannot take advantage of the situation. The Officer concerned tried to raise this issue. It is nobody's case that these lectures of Prof. Deo were being taken by any other Lecturer or that any other Lecturer was paid for the work which was earlier being taken from Prof. Deo. We totally disapprove the approach of the Government in this behalf. The Petitioner has unnecessarily suffered because of the College not forwarding the necessary papers to the authorities of the Government but at the same time Government cannot shirk its responsibility in paying her according to the scale.

7. In the circumstances we allow this Petition. It will be open to the Authorities of the Respondent No.2 to visit the concerned College and to scrutinise the record and to find out as to whether the Petitioner did take the lectures. This is provided the Officers of Respondent No.2 are keen on that and they may do so in four weeks. On an intimation from the third Respondent, the fourth or fifth Respondent will make available the attendance and other relevant record. On their scrutinising the record if they do not find that the Petitioner had not taken the lectures, the Respondent No.2 will fix the salary of the Petitioner as per the scale at the end of the 4 weeks and also clear the arrears on the basis of the correct pay which was to be given to the Petitioner from 20th June 2001.

8. The Petitioner will be treated as full-time Lecturer from 20th June 2001 in the concerned College of Respondent No.4 and will be eligible for all other benefits. The post will be treated as converted to that of full-time Lecturer.

9. Rule made absolute as above though without any order as to costs.

(H.L.GOKHALE,J.)

(SMT.R.S.DALVI,J.)